

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CR-02-36-F
)	
TONY DUONG,)	
)	
Defendant.)	

ORDER

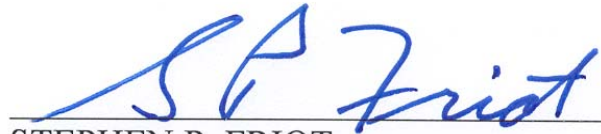
On March 16, 2005, defendant, Tony Duong, filed a Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence By a Person in Federal Custody. With his motion, defendant filed a Memorandum in Support of His Motion Pursuant to 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence and Request for Evidentiary Hearing.

Having reviewed of all of the parties' submissions in support of and in opposition to the motion, and mindful that under section 2255, a hearing is required "[u]nless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief," the court concludes that an evidentiary hearing as to defendant's five claims of ineffective assistance of counsel is necessary. Defendant's claims of ineffective of assistance of counsel raise serious matters which should not be resolved without an evidentiary hearing.

Accordingly, a scheduling conference shall be held in chambers on August 2, 2005, at 2:30 p. m. The purpose of this hearing will be to discuss scheduling, discovery and other matters relevant to the prompt and fair resolution of the issues now before the court. Prior to the scheduling conference, counsel should inform

themselves as to the availability of their witnesses (including defendant's former counsel, David D. Smith, and the interpreter, Mai Ly Do) for possible hearing dates in September, October and November, 2005.

Dated this 5th day of July, 2005.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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